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10/591,123	10/30/2006	Sven-Ake Jonsson	1511-1055	7455

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EXAMINER	
HUANG, CHENG YUAN	
ART UNIT	**PAPER NUMBER**
4132	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/591,123	JONSSON, SVEN-AKE	
	Examiner	Art Unit	
	CHENG HUANG	4132	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-12* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-12* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *30 August 2006* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *20060830,20080521*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

3. Regarding all applicable claims, it is unclear what the various parenthetical numbers in the claims refer to. To the extent that they may refer to elements depicted in various drawings, it is unclear whether the claim scope is to be limited to the embodiments of those drawings.

4. Regarding claim 1, it is unclear what is meant by the phrase “with a tensile strength in the axial direction of the tube which is at least 100 N/mm^2, preferably at least 150 N/mm^2, and most preferably at least 210 N/mm^2.” In view of the phrase "preferably," it is unclear whether the claimed tensile strength value is limited to “at least 100 N/mm^2,” “at least 150 N/mm^2”, or, “at least 210 N/mm^2.” Since multiple ranges are claimed, it is unclear which of the ranges limits the scope of the claimed limitation. Applicant is advised to delete the preferred phrases to improve clarity and precision of the claim language. If Applicant desires limitations to the preferred ranges as recited in the claims, Applicant is suggested to introduce the preferred ranges separately in multiple dependent claims. Analogous rejections apply to the limitations pertaining to elongation

at break and layer thickness. Analogous rejections also apply to the parameters claimed in Claims 2 and 9.

Claim Objections

5. Claims 2-12 are objected to because of the following informalities: In each of Claims 2-12, a transition word and/or phrase, such as "wherein" is missing between the preamble and the body of the claim. Appropriate correction is required.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

7. The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

8. Claims 1-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dronzek et al. (WO 93/09925) in view of Hakansson (U.S PGPUB No. 20020139707).

9. Regarding claim 1, Dronzek et al. discloses a plastic container (page 1, lines 3-5) being manufactured by injection molding, wherein the container comprises a label applied simultaneously with the injection molding (page 12, lines 26-29), the label being

comprised of a plastic film, e.g. monoaxially oriented thermoplastic polypropylene film with a thickness of 0.003 inches (76 μm), a density of 0.905 g/cm^3, tensile strength of 28,000 psi (193 M/mm^2), and elongation at break of 60% (page 12, lines 30-33; page13, lines 16-30). Dronzek et al. refers to bottles and "other types of plastic containers formed by blow or injection molding" (page 12, lines 30-33). Containers include thin walled-plastic tubes comprising a tube body with a tube shoulder with an emptying opening at the first end and an end closure at the second end.

10. Regarding claim 2, Dronzek et al. discloses a plastic film having machine and transverse direction tensile strength values, i.e., MD=110 N/mm^2, TD=193 N/mm^2, that exceed the claimed radial tensile strength value. The claimed radial tensile strength values is identified with the transverse direction of Dronzek's film in view of Fig. 1 in the specification. Therefore, it would be expected that the claimed radial tensile strength values are inherently achieved in Dronzek et al. Even if the machine direction in Dronzek et al. should be identified with the claimed radial direction, the claim limitation is satisfied.

11. Regarding claim 7, dependent on claim 1, Dronzek et al. further discloses a plastic film being a multilayer film comprising at least one layer of oriented polypropylene (page 11, lines 1-10; page 12, lines 15-17; page 17, lines 23-24).

12. Regarding claim 9, dependent on claim 1, Dronzek et al. further discloses the said plastic film having a density of 0.905 g/cm^3.

13. Regarding claims 1, 2, 7, and 9, Dronzek et al. does not explicitly disclose a wall thickness of 0.3 mm – 1.2 mm.

14. Hakansson discloses a plastic container/dispenser, i.e. tube, comprising a label being simultaneously formed with injection molding, wherein the container/dispenser has a wall thickness of "0.5-1 mm, typically 0.7 mm" (paragraph [32-34]). Hakansson discloses that such a thickness will enhance transparency, lower weight, and retain resistance to physical damage due to incautious handling of the dispenser and strains of Hakansson (paragraph 33) depending on the chosen polymer which is disclosed to include polyethylene or polypropylene (paragraph [30]).

15. Dronzek et al. and Hakansson are analogous because they all discuss containers comprised of labels made simultaneously by injection molding.

16. It would have been prima facie obvious to one of ordinary skill in the art at the time of the invention to modify the thin walled plastic tube of Dronzek et al. with the wall thickness of Hakansson for the purposes of easily achieving transparency, lowering weight, and retaining resistance to damage due to incautious handling of the dispenser and strains of Hakansson (paragraph [33]).

17. Regarding claims 3-6 and 10-12, Dronzek et al. is silent as to the label orientation on the tube, label extension around the entire tube body in the radial direction, label extension over the entire length of the tube body, label extension from the shoulder edge to the end closure, label extension in the longitudinal direction into the end closure on the tube body, label extension in the longitudinal direction over the edge between the tube body and the tube shoulder, or label extension around the entire tube body in the radial direction. Regarding Claim 8, Dronzek in view of Hakansson does not teach a non-linear end closure.

18. Regarding Claims 3-6 and 10-12, it would have been obvious to one skilled in the art at the time of the invention to apply the teachings of the prior art of in-mold labeling of labels to containers to include covering the surface of the substrate with a label in the various manners claimed, given the teachings of Dronzek et al. in view of Hakansson, as being routine experimentation and given the teachings and guidance in the prior art for in-mold labeling as a matter of design choice. See MPEP 2144.04

19. Regarding claim 8, it would have been obvious to one of ordinary skill in the art at the time of the invention to utilize a variety of end closures of containers and be motivated to apply the label of Dronzek et al. in view of Hakansson onto a container having a non-linear end closure with a reasonable expectation of success as a matter of design choice for the container end closure. See MPEP 2144.04.

20. Claims 1-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dronzek et al. (WO 93/09925) in view of Applicant's Admissions.

21. Regarding claim 1, Dronzek et al. discloses a plastic container (page 1, lines 3-5) being manufactured by injection molding, wherein the container comprises a label applied simultaneously with the injection molding (page 12, lines 26-29), the label being comprised of a plastic film, e.g. monoaxially oriented thermoplastic polypropylene film with a thickness of 0.003 inches (76 μm), a density of 0.905 g/cm^3, tensile strength of 28,000 psi (193 M/mm^2), and elongation at break of 60% (page 12, lines 30-33; page13, lines 16-30). Dronzek et al. refers to bottles and "other types of plastic containers formed by blow or injection molding" (page 12, lines 30-33). Containers include thin

walled-plastic tubes comprising a tube body with a tube shoulder with an emptying opening at the first end and an end closure at the second end.

22. Regarding claim 7, dependent on claim 1, Dronzek et al. further discloses a plastic film being a multilayer film comprising at least one layer of oriented polypropylene (page 11, lines 1-10; page 12, lines 15-17; page 17, lines 23-24).

23. Regarding claim 9, dependent on claim 1, Dronzek et al. further discloses the said plastic film having a density of 0.905 g/cm^3.

24. Regarding claims 1, 2, 7, and 9, Dronzek et al. does not explicitly disclose a wall thickness of 0.3 mm – 1.2 mm.

25. Dronzek et al. does not explicitly disclose a tube having an axial direction and a radial direction, comprising a tube body with a tube shoulder with an emptying opening at a first end and an end closure at the second end.

26. Applicant's own admission of the prior art (page 1, lines 4-8) discloses the structural features of a conventional tube as a thin walled plastic tube having an axial direction, a radial direction, a tube body with a tube shoulder with an emptying opening at a first end, and an end closure at the second end of the claimed thickness.

27. It would have been prima facie obvious to one of ordinary skill in the art at the time of the invention to modify the thin walled plastic container and label of Dronzek with the conventional tube features of Applicant's Admission for the purposes of creating a thin plastic tube having conventional tube structure with the desirable label taught by Dronzek et al.

28. Regarding claims 3-6 and 10-12, Dronzek et al. is silent as to the label orientation on the tube, label extension around the entire tube body in the radial direction, label extension over the entire length of the tube body, label extension from the shoulder edge to the end closure, label extension in the longitudinal direction into the end closure on the tube body, label extension in the longitudinal direction over the edge between the tube body and the tube shoulder, or label extension around the entire tube body in the radial direction. Regarding claim 8, Dronzek in view of Applicant's Admission does not teach a non-linear end closure.

29. Regarding claims 3-6 and 10-12, it would have been obvious to one skilled in the art at the time of the invention to apply the teachings of the prior art of in-mold labeling of labels to containers to include covering the surface of the substrate with a label in the various manners claimed, given the teachings of Dronzek et al. in view of Applicant's Admissions, as being routine experimentation and given the teachings and guidance in the prior art for in-mold labeling as a matter of design choice. See MPEP 2144.04

30. Regarding claim 8, it would have been obvious to one of ordinary skill in the art at the time of the invention to utilize a variety of end closures of containers and be motivated to apply the label of Dronzek et al. in view of Applicant's Admissions, onto a container having a non-linear end closure with a reasonable expectation of success as a matter of design choice for the container end closure. See MPEP 2144.04.

Conclusion

31. Any inquiry concerning this communication or earlier communications from the examiner should be directed to CHENG HUANG whose telephone number is (571)270-

7387. The examiner can normally be reached on Monday - Thursday from 8:00 am to 4:00 pm.

32. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, MICHAEL LAVILLA, can be reached on (571)272-1539. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

33. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/C. H./

Examiner, Art Unit 4132

/Michael La Villa/
Michael La Villa
Supervisory Patent Examiner, Art Unit 4132
12 September 2008